

REMARKS/ARGUMENTS

Applicant would like to thank the Examiner for the careful consideration given the present application and for indicating that claim 14 contains allowable subject matter.

Claims 1-3, 7, 9 and 10 were rejected under 35 U.S.C. 112, first paragraph, for reciting "said switching unit comprising a sensing unit." Claim 1 has been amended and now recites "said hearing system comprising a sensing unit" as shown, e.g., in Fig. 1. In view of the amendment to claim 1, applicant respectfully requests reconsideration and withdrawal of the rejection under 35 U.S.C. 112.

Claims 1-3, 7, 9, 10, 12 and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann in view of Ross. Claims 12 and 13 have been canceled.

Claim 1 requires a switching unit being switchable by an individual who controls a hearing device in a first stable operating status as desired by said individual or in at least one second stable operating status as desired by said individual, so as to adapt said hearing system by said individual to a respectively desired operating status. The first and second stable operating statuses are different and are perceived by the individual as being different.

Hohmann's system maintains a stable operating status by activating notch filters to remove unwanted feedback-conditioned oscillations. Assuming, *arguendo*, that the claimed first stable operating status corresponds to Hohmann with notch filters deactivated and the claimed second stable operating status corresponds to Hohmann with notch filters activated, Hohmann's different stable states would not be perceived by an individual as being different. Hohmann's stable states would be perceived as being different from an unstable state having feedback-conditioned oscillations. However, the stable states would not be perceived as being different

from each other. Claim 1 requires that the first second stable operating statuses are perceived by the individual as being different.

Furhter, claim 1 recites, “said instability being willingly established by said individual at a desired moment and removed by said individual at a second desired moment so as to control said switch-over by the willingly applied instability.” The cited combination of references does not teach instability being willingly removed by an individual at a second desired moment. Hohmann teaches detecting oscillations due to feedback and automatically activating a notch filter to eliminate the oscillations (6:22-41). Hohmann’s oscillations are automatically eliminated and, therefore, are not willingly removed *by said individual* at a second desired moment. Ross teaches that placing one’s hands next to a hearing aid will increase the chances of feedback. Assuming, *arguendo*, that the combination of Hohmann and Ross suggests willingly establishing feedback, such feedback would automatically be eliminated when Hohmann’s notch filter is activated. Accordingly, the cited combination of references does not teach instability being willingly removed by an individual at a second desired moment.

In view of the deficiencies of the cited combination of references, applicant submits that claim 1 is allowable over said combination. Claims 2, 3, 7, 9 and 10 depend from claim 1.

Claim 14 was objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form. The current amendment places claim 14 in independent form.

New claim 15 has been added. Claim 15 recites, “willingly ceasing, by the individual, the instable operating mode of the hearing device.” Hohmann *automatically* eliminates oscillations by activating a notch filter. The oscillations are not willingly ceased by an individual. The combination of Hohmann and Harris would automatically eliminate any

oscillations and, therefore, the combination does not suggest that an individual ceases an instable operating mode.

New claim 16 has been added, which depends from above-discussed claim 1.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. TSW-36162.

Respectfully submitted,
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